

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 703 KAR 5:070. Procedures for the inclusion of special populations in the state-required
6 assessment and accountability programs.

7 RELATES TO: KRS 158.6451, 158.6453, 158.6455

8 STATUTORY AUTHORITY: KRS 156.029, 156.070, 158.6453, 158.6455

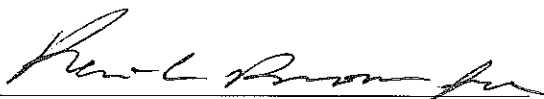
9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 provides the Kentucky Board
10 of Education with the authority to promulgate administrative regulations to establish a system of
11 determining successful schools and a system of rewards and assistance for certified staff in
12 schools and districts. This administrative regulation establishes procedures for the inclusion of
13 special student populations in the state-required assessment and accountability programs.

14 Section 1. Incorporation by Reference. (1) "Procedures for Inclusion of Special Populations in
15 the State-Required Assessment and Accountability Programs", December 2016 [~~February 2014~~],
16 is incorporated by reference.

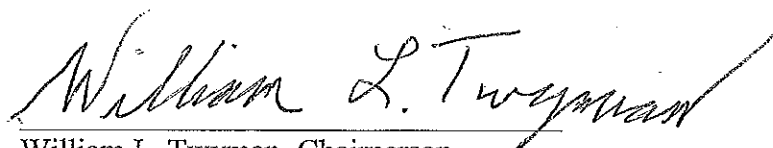
17 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
18 the Department of Education, Office of Assessment and Accountability, 5th floor, 300 Building,
19 300 Sower Boulevard [~~18th Floor, Capitol Plaza Tower, 500 Mero Street~~], Frankfort, Kentucky,
20 Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

12-15-16
(Date)


Stephen L. Pruitt, Ph.D.
Commissioner of Education

12-15-16
(Date)


William L. Twyman, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on January 26, 2017, at 10 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321, email kevin.brown@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 703 KAR 5:070

Agency Contact Person: Kevin C. Brown kevin.brown@education.ky.gov
Phone number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: 703 KAR 5:070, which incorporates by reference "Inclusion of Special Populations in the State-Required Assessment and Accountability Programs," December 2016, establishes procedures for the inclusion of special populations of students in the state-required assessment and accountability system that classifies schools and districts.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to create and implement a statewide assessment program that measures the achievement of students, schools and districts, complies with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95 and ensures accountability.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary for implementation of the statewide assessment and accountability system. The regulation provides procedures for inclusion of special populations in the requirements of KRS 158.6453, KRS 158.6455 and the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on the inclusion of student special populations in the state-required assessment and accountability programs. The regulation defines accommodations permitted with state-required testing for students with education plans (i.e., Individualized Education Program (IEP), 504 Plan and Program Services Plan for English learners) and for students enrolled in particular programs (i.e., alternative programs, state agency, home/hospital settings); and for students participating in the alternate assessment program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The revision removes the need for students to initiate the use of testing accommodations.

(b) The necessity of the amendment to this administrative regulation: This change was implemented, based on requirements of the United States Department of Education, Office of Civil Rights (OCR) beginning with spring 2016 testing. Revising the regulation document formalizes the OCR required change and more clearly communicates the rules for testing accommodations to the public, parents, assessment administrators and testing proctors.

(c) How the amendment conforms to the content of the authorizing statute: The amendment provides guidance on inclusion of special populations in the requirements of KRS 158.6453, KRS 158.6455 and the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides necessary clarification on testing accommodations to ensure valid test results.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky and supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The regulation will impact schools and districts by providing guidance on the inclusion of students in special populations in assessment and accountability system used to classify school and district performance.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff in schools and school districts administer the state-required assessment using consistent rules and procedures. The amendment ensures consistent procedures for the inclusion of students in special populations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Implementation of the changes have been handled within the routine annual training and communication processes. There is no impact to the state budget.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky schools and districts will have clear guidance on the inclusion of students in special populations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The proposed amendment requires development of new explanatory materials and training that is normal work for staff. No additional costs are expected.

(b) On a continuing basis: The amended regulation does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KDE operating funds

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Current funding supports implementation of amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 703 KAR 5:070
Contact Person: Kevin C. Brown kevin.brown@education.ky.gov
Phone number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453, KRS 158.6455 and the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no additional revenue generated by this administrative regulation. No additional costs to school districts are expected.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No costs are associated with the amendment.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with the amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

Summary Page - Incorporation by Reference

704 KAR 5:070. Inclusion of Special Populations in the State-Required Assessment and Accountability Programs

The following documents are incorporated by reference:

"Inclusion of Special Populations in the State-Required Assessment and Accountability Programs", December 2016. The document incorporated by reference consists of (35) pages.

Detailed Summary of Changes and Their Effect:

This document establishes procedures for the inclusion of special populations of students in the state-required assessment and accountability system that classifies schools and districts. The amendment was implemented, based on requirements of the United States Department of Education, Office of Civil Rights (OCR) beginning with spring 2016 testing. Revising the regulation document formalizes the OCR required change and more clearly communicates the rules for testing accommodations to the public, parents, assessment administrators and testing proctors. The amendment provides guidance on inclusion of special populations in the requirements of KRS 158.6453, KRS 158.6455 and the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95. The amendment provides necessary clarification on testing accommodations to ensure valid test results.